

REMARKS

Claims 10-25 are pending and under current examination.

Regarding the Office Action:

In the Office Action, the Examiner rejected claims 10-12 and 18-20 under 35 U.S.C. § 102(e) as being anticipated by Caretta et al. (U.S. Patent App. Pub. No. 2003/0050743A1) ("Caretta"); and objected to claims 13-17 and 21-25 as being dependent upon a rejected base claim, but indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants traverse the rejections for the following reasons.¹

Rejection of Claims 10-12 and 18-20 under 35 U.S.C. § 102(e):

Applicants respectfully traverse the rejection of claims 10-12 and 18-20 under 35 U.S.C. § 102(e) as anticipated by Caretta.

Applicants note Federico Mancosu is an inventor common to both the present application and Caretta. Thus, according to the M.P.E.P., Applicants can remove Caretta as prior art:

Under certain circumstances an affidavit or declaration may be submitted which attempts to attribute an activity, a reference or part of a reference to the applicant. If successful, the activity or the reference is no longer applicable. When subject matter, disclosed but not claimed in a patent application filed jointly by S and another, is claimed in a later application filed by S, the joint patent or joint patent application publication is a valid reference available as prior art under 35 U.S.C. [§§] 102(a), (e), or (f) unless overcome by affidavit or declaration under 37 CFR [§] 1.131 showing prior invention (see MPEP § 715) *or an unequivocal declaration by S under 37 CFR [§] 1.132 that he or she conceived or invented the subject matter disclosed in the patent or published application.* (M.P.E.P. § 716.10, 8th Ed., Rev. 2 (May 2004), p. 700-269, emphasis added.)

¹ The Office Action contains statements characterizing the related art, case law, and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

Accordingly, Applicants attach herewith a Declaration under 37 C.F.R. § 1.132 by Federico Mancosu to remove Caretta as prior art and to overcome the 35 U.S.C. § 102(e) rejection of claims 10-12 and 18-20. Since Mr. Mancuso is the sole inventor of both the subject matter relied upon by the Examiner in formulating the rejection under § 102(e) and the sole inventor of claims 10-12 and 18-20 of the present application, the cited portions of Caretta are not to “another,” and do not constitute prior art under § 102(e).

Applicants request withdrawal of the 35 U.S.C. § 102(e) rejection.

Objection to Claims 13-17 and 21-25:

Since independent claims 10 and 18 are allowable, dependent claims 13-17 and 21-25 are also allowable at least by virtue of their respective dependence from base claim 10 or 18. Accordingly, Applicants request withdrawal of the objection.

Conclusion:

In view of the foregoing, Applicants request reconsideration of the application and withdrawal of the rejection. Pending claims 10-25 are in condition for allowance, and Applicants request a favorable action.

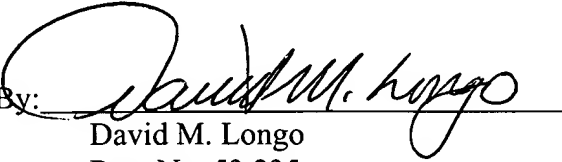
Should the Examiner continue to dispute the patentability of the claims after consideration of this Amendment, Applicants encourage the Examiner to contact the undersigned representative by telephone to discuss any remaining issues or to resolve any misunderstandings.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: February 28, 2005

By: 
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